IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 564/2001

RAJASTHAN STATE WAREHOUSING CORPORATION
Vs.
THE JUDGE, INDUSTRIAL TRIBUNAL, JAIPUR & ORS.

DATE: 05.07.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Kamlakar Sharma for the petitioner.
Mr. Bheem Singh for the respondents.

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The instant writ petition is directed against the impugned Award dated 13.04.2000 passed by the Industrial Tribunal, Jaipur, whereby following award has been passed:-

> "(a) The worker Murari Lal Sharma is entitled for promotion from the post of Godown-Keeper to L.D.C. from March 17, 1970 and the same is granted to him.
>
> (b) Looking to the considerable and unexplained delay in raising the dispute, Murari Lal Sharma is deprived from the amount of back wages i.e. arrears for the period March 17, 1970 to September 7, 1987. Costs made easy."

The petitioner Corporation has challenged the said Award on the ground that the dispute has been raised by the respondent No.2 Murari Lal Sharma in

respect of his alleged non-promotion as LDC w.e.f. 17.03.70 after a long and unexplained delay of more than 13 years. It was also contended that Shri Harphool Singh was promoted on the post of LDC w.e.f. 17.03.70 as he was found eligible and meritorious and if the respondent No.2 was aggrieved with the promotion of Shri Harphool Singh, he could have challenge the same within a reasonable period of time. It is further contended that the respondent No.2 was not entitled to raise any dispute in respect of his non-promotion as LDC without impleading the effected persons as party respondents and no adverse order can be passed behind the back.

It is not disputed by both the parties that respondent No.2 Murari Lal Sharma was subsequently promoted as LDC and retired from service after attaining superannuary age. As per the learned counsel for the petitioner the respondent No.2 will not get any benefit and unnecessarily the petitioner has to undertake the exercise to revise the seniority list from 17.03.70. It is also contended on behalf of the parties that most of the persons have attained superannuary age and retired from their respective posts.

It is stated by the learned counsel for the respondents that no time limit has been provided under Section 10(5) and (1) of the Industrial Disputes Act and thus, there is no question of raising the dispute after delay. In support of his submissions, the learned counsel has placed reliance on the judgment rendered by the Allahabad High Court in the case of **The Chief General Manager, State Bank of India, Lucknow Vs. B.C. Verma and another, reported in 1994(68) F.L.R. 777.**

It is also submitted by the learned counsel for the respondents that respondent No.2 being senior and qualified having a qualification of higher secondary for the post of LDC and being a senior most, has raised the dispute and other persons who are given promotions, are admittedly junior than respondent No.2. Therefore, the respondent No.2 need not to implead his junior persons as necessary party respondents.

Further the Industrial Tribunal has not committed any error as the promotion has been granted to the respondent No.2 w.e.f. 17.03.70, the date upon which Shri Harphool Singh, junior than the respondent No.2 was given promotion.

I have heard rival submissions of the respective parties and carefully gone through the impugned Award dated 13.04.2000 passed by the

Industrial Tribunal, Jaipur.

The petitioner has raised all the objections, which are raised here in this writ petition, before the Industrial Tribunal and the Industrial Tribunal has considered all the objections raised by the petitioner and after having considered the entire facts and circumstances of the case, has rightly held that the respondent No.2 Murari Lal Sharma is entitled for promotion from the post of Godown-Keeper to LDC from March 17, 1970 and the same is granted to him, but on account of raising the dispute after a long and unexplained delay, the Industrial Tribunal has rightly denied back wages i.e. arrears to the respondent No.2 Murari Lal Sharma for the period March 17, 1970 to September 7, 1987.

I am not convinced with the submissions made on behalf of the petitioner Corporation that the petitioner has to undertake the entire exercise and draw a seniority list. Admittedly respondent No.2 Murari Lal Sharma is senior most and junior person Shri Harphool Singh was promoted on the post of LDC w.e.f 17.03.70 and from the same date respondent No.2 has been given the benefit, which is absolutely in accordance with the provisions of law and accordingly the seniority list can be prepared.

Thus, I find no illegality in the impugned Award dated 13.04.2000 passed by the Industrial Tribunal, Jaipur and the same requires no interference by this Court.

Consequently, the writ petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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